1947

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File No. Town Plan II/47

Legal **DEPARTMENT**

B. **BRANCH**

A 6613 **Subject:—**

Rules and Notifications under the Bombay Town Planning Act, 1915

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Std. Sects. Slip 24 B e.

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C O N T E N T S.

Legal Department File No.Town Plan II/47.

S.No.	Compilation No.	Subject	Pages.
		The Bombay Town Planning Act, 1915.	
1.	C.R.C.O.D.No.3184 dtd.3.4.47	Town Planning Scheme - variation in the by the Arbitrator...	1 - 4 (1-3 not typed)
2.	U.R. to C.D.No. 3762 dtd.17.4.47	Sec.40(1) - Notification under -	5 - 8
3.	U.R. to C.D.No. 3938 dtd.18.4.47	Sec. 52 - Notification under -	9 -12
4.	U.R.to H.& C.D.No. 5318 dated 23.5.47	Sec. 52 - Remarks on the term "proceedings under"-	13 -14
5.	U.R. to H.& C.D.No. No.7378 dtd.17.7.47	Issue of Notification under an old Notification -	15-16.
6.	C.R.& C.F. U.& C.D.No. 2572 dtd.29.9.47	Sec. 40(1) Notification under -	17-20 not typed

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Office of the R.L.A.

In place of the draft notification proposed by G.D. at pages 293-294 ante, a revised draft thereof is sent herewith. As it is proposed to make material variations in the scheme sanctioned in G.H.G.D., No. 2572, dated 10th January 1927, the G.D. is requested to fill in the details of the said variations in the draft notification, before it is issued.

Sd/- D.V.Vyas.

Remembrancer of Legal Affairs.

U.R. to G.D. No. 3762, dated the 17th April 1947.

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H.V.V.
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NOTIFICATION.

General Department,
Bombay Castle, 1947.

Bombay Town Planning Act, 1915.

No. .- Whereas by Government Notification in the General Department No. 2572, dated the 10th January 1927, the Government of Bombay in exercise of the powers conferred by sub-section (1) of section 40 of the Bombay Town Planning Act, 1915 (Bom. I of 1915), sanctioned the final scheme made by the Bagalkot Municipality for area (a) out of the areas specified in the said notification, hereinafter called " the principal scheme";

And Whereas the said Municipality has in exercise of the powers conferred by sub-section (1) of section 46, read with sub-section (1) of section 9 of the said Act, by its resolution No. 236, dated the 31st August 1945, declared its intention to vary the principal scheme by making a new scheme (Hereinafter referred to as ' the said scheme') in variation of the principal scheme in respect of the following particulars, namely:-

(Here specify the particulars of the variation.)

And Whereas the said Municipality has, in accordance with sub-section (2) of section 9 of the said Act, duly published at page 754 of Part II of the Bombay Government Gazette, dated the 13th September 1945, a declaration of its intention to make the said scheme and applied to the Government of Bombay for sanction to the making of the said scheme;

And Whereas two no objections or suggestion in writing relating to the making of the said scheme/----

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have been received by the Government of Bombay from any person likely to be affected by the said scheme;

Now therefore, in exercise of the powers conferred by sub-section (6) of section 9 of the said Act, the Government of Bombay is pleased to sanction the making of the ~~xxxxxxx~~ said scheme, subject to the modification that final plots Nos. 154 and 157 reserved for the criminal tribes settlement should be exempted from the operation of Building Regulations Nos.6 and 8 of the principal scheme.

By order of the Governor of Bombay,

Secretary to Government.

4-Cs.

H.V.V.
15/5.

Office of the R.I.A.

Under sub-rule (1) of rule 8 of the Rules made under section 52 of the Bombay Town Planning Act, 1915, a local authority has to submit a draft scheme within four months from the date of its publication under section 10(1) or (2) of the Bombay Town Planning Act, 1915. Under the proviso to sub-rule (1) of rule 8, the Provincial Government can extend this period by a further period not exceeding three months on the application in writing of the local authority in that behalf. It is true the local authority has made an application in that behalf in this case. But if the maximum period of three months for which the Provincial Government can give extension under the proviso to rule 8(1) itself has expired, I do not see how the grant of extension under the proviso to rule 8(1) will help matters. It is also not known whether the Municipality has after all submitted the scheme even within these three months extended period.

2. In any case, no notification is required under rule 8(1) proviso and a mere executive order that the extension has been granted will suffice. But before this is done, the G.P. should verify whether or not the Municipality has after all submitted the scheme within the period for which the provincial Government can give extension under the proviso to rule 8(1)

Sd/- P.V.Lad,

Remembrancer of Legal Affairs

U.R.to G.D., No. 3938, dated the 18th April 1947.

EE 4-Cs.
P.V.V./15.5

NOTIFICATION.

General Department,
Bombay Castle, 1947.

Bombay Town planning Act,1915.

No. 4750/33. In exercise of the powers conferred by the proviso to sub-rule (1) of rule 8 of the rules made under section 52 of the Bombay Town Planning Act, 1915 (Bom. I of 1915), the Government of Bombay, is pleased, on the application in writing of the Ahmedabad Municipality to extend by three months the period for the submission of the draft Town Planning Scheme Ahmedabad, No.VIII, to the Provincial Government under sub-section (1) of section 14 of the said Act.

By order of the Governor of B'bay

Under Secretary to Government.

4-Ca.
M.V.V.
15/5.

Office of the R.L.A.

Under section 5(2)(v) of the Bombay Town Planning Act, 1915, the proceedings of local authorities under that Act are to be regulated. Rule 26 of the Bombay Town Planning Rules also speaks of the proceedings under the Bombay Town Planning Act. The word "proceedings" used in the section and the rule is of wide connotation and need not be construed with reference to the use of that word in section 36 of the City of Bombay Municipal Act. Proceedings under the Town Planning Act may be either of a deliberative or executive character. Authority regarding the former need not be delegated to the Municipal Commissioner; and the authority regarding the latter is already delegated to him under section 64(3) of the City of Bombay Municipal Act and he has further powers of delegation under section 68. It follows, therefore, that all proceedings under the Town Planning Act which are of an executive character can be performed by the Municipal Commissioner or his delegate. No amendment of the rule by way of an explanation or otherwise is necessary. The proposed amendment of the rule is superfluous and might introduce confusion for other local authorities. To that extent R.L.A's opinion No.3411, dated the 7th May 1946 requires modification. The R.L.A. adheres to the para.4 of opinion No.6052, dated 9.7.1945. The Municipal Commissioner may be informed accordingly.

Sd/- [illegible] P.V.Lad,
23/5.

Remembrancer of Legal Affairs.

U.R.to H. & L.C. Deptt., No.5318, dated the 23rd May 1947.

A-Ca.
H.V.V.
15/5.

Office of the R.L.A.

I do not think that any modification as suggested by Health and Local Government Department is necessary in the draft notification at names 317-318 already supplied to the Health and Local Government Department. It is true that in his opinion No.6306, dated the 5th November 1935 the R.L.A. advised the issue of an order under section 9(6) in modification of that issued in G.N. G.D.No.2572, dated the 7th July 1930 but that was mainly to save the issue of a notification under section 14 of the Act. The Order of 1930 must be now deemed to have lapsed by efflux of time and to refer to that Order in the proposed notification would not be appropriate. However, as there is no specific provision in the Act providing that the sanction of the Provincial Government for making of a town-planning scheme shall lapse after a prescribed period although such scheme was duly published within the prescribed period, it would be desirable to cancel separately the notification of 1930. (vide R.L.A's opinion No.1935, dated 29.9.1924). The Health and Local Government Department should therefore cancel separately the notification No.2572, dated 7th July 1930 and then issue a notification on the lines of thedraft already supplied to them.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.R. to Health and Local Government Department, No.7378, dated the 17th July 1947.

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